

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARLO MARQUEZ,

Plaintiff,

vs.

Civ. No. 01-445 WWD/LFG

THE CITY OF ALBUQUERQUE, OFFICER
ANDREW LEHOCKEY (both in his official
capacity as a police officer and individually),

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff's Motion in Limine filed September 16, 2002 [docket no. 132]. Plaintiff seeks to bar evidence as to her drug use, her DWI arrests or convictions, her evading conviction, and her treatment for mental illness or substance abuse. I find that evidence of Plaintiff's arrests and convictions (including the evading conviction) would be more prejudicial than probative; accordingly, such evidence will not be admitted. Plaintiff is making claims for emotional distress and mental anguish stemming from the dog bite incident. Since Plaintiff has put her emotional state at issue, inquiry can be made into other areas which could reasonably be expected to impact on that condition. Evidence as to Plaintiff's drug use and alcohol use and her treatment, if any, for mental illness or substance abuse will be admitted. The Court will exclude and admit evidence in a manner consistent with this Opinion. However, the Court's ruling on a particular motion does not mean that all evidence contemplated by the motion

will be admitted or excluded at trial. The Court recognizes that, depending upon the exact testimony and evidence presented at trial, evidence that the Court previously deemed admissible may be limited or excluded, and excluded evidence may be admitted for a purpose not anticipated at the time of this ruling.

Trial evidence will be admitted in accordance with the foregoing.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE